

REMARKS/ARGUMENTS

Claims 1-57 are pending. No claims have been amended herein.

Claims 1-13, 16-30, 33-47 and 50-55 were rejected under 35 USC §103 as being obvious over Weingardt et al., US Patent No. 5,275,400 (hereinafter "Weingardt"), in view of Walker et al., US Patent No. 6,086,477 (hereinafter "Walker '477").

Claims 14, 15, 31, 32, 48 and 49 were rejected under 35 USC §103 as being obvious over Weingardt in view of Walker '477 and further in view of Walker et al., US Patent No. 6,277,972 (hereinafter "Walker '972").

Applicants respectfully request reconsideration and withdrawal of these rejections for the following reasons. These references were discussed in a prior response.

In response to arguments presented by Applicant, it was stated in the Office Action that "one cannot show non-obviousness by attacking references individually where the rejections are based on a combination of references." It was also stated that Applicant "argues that Walker teaches a different definition of token than Applicant's", that Applicant "fails to address the contribution of Weingardt", and that Applicant "must address the teaching of the combination as a whole."

The arguments presented by Applicants were merely pointing out what is believed to be an erroneous characterization that "money" in Walker can be equated with a "token" as recited in the claims. That is, the Examiner was singling out Walker for the proposition that money and tokens are the same, and Applicants were contesting this characterization in view of the claims. For example, it was stated in the Advisory Action mailed December 2003, that in Walker, money is merely a token. That is, it is believed the Examiner was confusing the term "money" with "token" as the term is used in the presently claimed invention.

Nonetheless, Applicants respectfully assert that were one to combine Walker and Weingardt, such combination could not result in the presently claimed invention.

Weingardt teaches pari-mutuel gaming and Walker teaches providing a lottery ticket that is entered into subsequent lottery drawings until that ticket wins a drawings based prize. This, as alleged in Walker, would have the desirable result of increasing participation in

Lotteries. Thus, this "guaranteed win" feature when combined with the teachings of Weingardt would, as alleged by the Examiner, result in the claimed invention based on the reasoning that it would have been obvious to one skilled in the art to include a guaranteed win feature in Weingardt's pari-mutuel gambling method to increase participation.

However, Applicant's respectfully assert that, whether or not there would be motivation or suggestion to one skilled in the art would to combine Walker with Weingardt, such combination fails to show how the idea of providing a guaranteed win feature in Weingardt's pari-mutuel gambling method actually results in a statistically positive token return to the players. That is, the idea of providing a guaranteed win feature does not in and of itself teach one how to provide a statistically positive return of tokens to the players using a gambling game apparatus. There is simply no teaching in either Walker or Weingardt as to how this may be implemented or accomplished. The present invention, to the contrary, includes specific teaching as to how to provide a statistically positive return of tokens for a variety of games. Such teaching can be found generally throughout the detailed description beginning, for example, at page 11, line 4, and more specifically at page 13 for slot machine type games, at pages 15 to 19 for poker type games, page 20 for "pick 'em" type games. Many other examples of such teachings are provided in the detailed description. Thus, even were Walker and Weingardt combined, such combination does not teach or suggest to one skilled in the art how to provide a statistically positive return of tokens in a gambling game.

Moreover, where "money" is a "token" as alleged in the Examiner's assertion, a combination of Walker and Weingardt could only result in a game that provides a guaranteed payout of more money than the player initially started with. The present invention, to the contrary, provides a statistical return of tokens, not money. Thus, there is no guaranteed "win" in a monetary sense. A statistically positive return of tokens may not result in a greater monetary value. As claimed, a "token" has a value that will vary since the total value of all tokens is constant, yet the total number of tokens varies. Thus, this does not guarantee a "win" in a monetary sense, as the total number of tokens in the set of tokens may have increased. With a total value of all tokens in the set of tokens being constant, as is recited in the claims, an increase

in the number of tokens a player has accumulated may not result in a greater token-equivalent monetary value if the number of tokens in the set of tokens has increased by a greater proportion than the player has accumulated. A numerical example of token value decreasing due to an increase in the total number of tokens (e.g., increase of tokens due to a statistically positive token return) can be found at page 4, lines 9 to 20.

Thus, a guaranteed payout (of "money") as would result from a combination of Walker and Weingardt does not teach or suggest the "tokens" or a statistically positive return of "tokens" as is presently claimed.

Accordingly, withdrawal of the pending rejections to all claims is respectfully requested in view of at least the above reasons.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,



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